

On January 11, 2012, the Nebraska Supreme Court adopted the following amendments to Neb. Ct. R. §§ 3-101 to 3-116, effective January 1, 2013:

### **CHAPTER 3**

#### **ATTORNEYS AND THE PRACTICE OF LAW**

##### **ARTICLE 1**

##### **ADMISSION REQUIREMENTS FOR THE PRACTICE OF LAW**

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##### **§ 3-101. Admission of attorneys; time of examination; filing of application.**

Examination of applicants for admission to the bar will be held on the days set for the ~~National Multistate Bar Examination and for the Multistate Essay Examination~~ Uniform Bar Examination at a location determined by the commission; provided, however, that the commission may hold examinations at such other times and places as it may deem advisable. The application for examination must be filed with the secretary of the bar commission as provided in § 3-102.

Commencing in 1991, and thereafter, each candidate for admission on examination in Nebraska must have passed the Multistate Professional Responsibility Examination as a requirement for admission to practice law in Nebraska. The passing score will be established from time to time by the Nebraska Supreme Court. The examination may be taken by the applicant at any location where it is administered.

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##### **§ 3-105. Admission qualifications.**

###### **(A) Classification of Applicants.**

(1) Class I-A applicants who may be admitted to practice in Nebraska upon approval of a proper application are those:

(a) who, as determined by the bar commission, have been admitted to, and are active and in good standing in, the bar of another state, territory, or district of the United States, and

(b) who at the time of their admission had attained educational qualifications at least equal to those required at the time of application for admission by examination to the bar of Nebraska, and

(c) who have passed an examination equivalent to the examination administered in the State of Nebraska, and, beginning in 1991, who have passed the Multistate Professional Responsibility Examination with the score required by Nebraska.

(2) Class I-B applicants who may be admitted to practice in Nebraska upon approval of a proper application are those:

(a) who have been licensed and are active and in good standing in the practice of law in another state, territory, or district of the United States preceding application for admission to the bar of Nebraska

and have actively and substantially engaged in the practice of law in another state, territory, or district of the United States for 5 of the 7 years immediately preceding application for admission, and

(b) who at the time of their admission had attained educational qualifications at least equal to those required at the time of application for admission by examination to the bar of Nebraska.

(3) Class I-C applicants who may be admitted to practice in Nebraska upon approval of a proper application are those:

(a) who have taken the Uniform Bar Examination (UBE) in another jurisdiction and have earned at least the minimum score as determined by the Nebraska Supreme Court, and

(b) have attained educational qualifications at least equal to those required by the time of application for admission by examination to the bar of Nebraska, and

(c) who have passed the Multistate Professional Responsibility Examination and earned a score as determined by the Nebraska Supreme Court.

~~(34)~~ For purposes of these rules, “practice of law” means:

(a) The private practice of law as a sole practitioner or as an attorney employee of, or partner or shareholder in, a law firm, professional corporation, legal clinic, legal services office, or similar entity; or

(b) Employment as an attorney for a corporation, partnership, trust, individual, or other entity with the primary duties of:

(i) Furnishing legal counsel, drafting documents and pleadings, and interpreting and giving advice with respect to the law; or

(ii) Preparing cases for presentation to or trying before courts, executive departments, or administrative bureaus or agencies; or

(c) Employment as an attorney in the law offices of the executive, legislative, or judicial departments of the United States, including the independent agencies thereof, or of any state, political subdivision of a state, territory, special district, or municipality of the United States, with the primary duties of:

(i) Furnishing legal counsel, drafting documents and pleadings, and interpreting and giving advice with respect to the law; or

(ii) Preparing cases for presentation to or trying cases before courts, executive departments, or administrative bureaus or agencies; or

(d) Employment as a judge, magistrate, hearing examiner, administrative law judge, law clerk, or similar official of the United States, including the independent agencies thereof, or of any state, territory, or municipality of the United States, with the duties of hearing and deciding cases and controversies in judicial or administrative proceedings, provided such employment is available only to an attorney; or

(e) Employment as a teacher of law at a law school approved by the American Bar Association throughout the applicant’s employment; or

(f) In the event that the applicant has not served for a full 5 of the last 7 years with any of the entities listed in subparagraphs (a) through (e) above, for purposes of this paragraph, the applicant may use any combination of subparagraphs (a) through (e) above.

(45) All other applicants are Class II applicants, who must take a written examination.

(6) For purposes of these rules, written examination shall mean the Uniform Bar Examination (UBE) comprised of the Multistate Essay Examination (MEE), the Multistate Performance Test (MPT) and the Multistate Bar Examination (MBE), as prepared and coordinated by the National Conference of Bar Examiners (NCBE).

(57) Applicants with the qualifications to be classified as Class I-A, ~~or~~ Class I-B, or Class I-C applicants shall not be permitted to apply for the written examination taken by Class II applicants without the prior approval of the bar commission, which approval may be given on good cause shown.

(B) Applications.

(1) All applications must be made on forms furnished by the commission.

(2) Fees are required by all applicants in an amount fixed by the Supreme Court and must be paid in cash, bank cashier's check, or money order. Fees may be refunded in accordance with guidelines adopted by the commission.

(C) Education Qualifications; Class II Applicants. All applicants must have received at the time of the examination their first professional degree from a law school approved by the American Bar Association. An applicant without a first degree from an approved law school shall be permitted to take the examination if such applicant will receive a first degree from an approved law school within 60 days after the date of the examination taken. In cases of hardship, the Supreme Court may, upon written application stating the nature and reason for the hardship to the applicant, permit the examination to be taken by an applicant before all other requirements have been fulfilled.

(D) Policy on Applicants with a Disability. The bar commission will follow special rules set forth in the Policy on Applicants with a Disability, Appendix C.

(E) Oath of Admission. No applicant will be admitted to the bar of Nebraska until such time as he or she has taken the oath of admission prescribed by the Supreme Court. No Class I applicant will be permitted to take such oath later than 18 months subsequent to the date upon which his or her application has been approved. No Class II applicant will be permitted to take such oath later than 18 months subsequent to the date of the announcement by the Court that he or she has passed the examination. Nothing precludes reapplication for admission. Admission of all applicants, including applicants who are being admitted with conditions set by the Supreme Court, will be by order of the Court, and certificates of admission issued to applicants will be signed by a Judge of the Court.

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### **§ 3-108. Written bBar examination; subjects.**

~~The bar commission will publish the subjects to which examination will conform. The subjects will be those the members of the bar commission deem necessary to properly prepare for the practice of law in this state, including the subject of legal ethics. The examination subjects will be determined by the National Conference of Bar Examiners.~~

### **§ 3-109. Bar commission; appointment; duties.**

On October 23, 1985, the Nebraska Supreme Court appointed a commission composed of six persons, learned in law, to make recommendations to the Court with reference to applicants for admission and to conduct examinations for the ensuing years. One commissioner was selected from each Supreme Court judicial district. In order to create staggered terms, commissioners first appointed on October 23, 1985, were selected so that one was appointed for a term of 1 year, one for a term of 2 years, one for a term of 3 years, one for a term of 4 years, one for a term of 5 years, and one for a term of 6 years, the terms beginning November 1, 1985. Thereafter, each commissioner is appointed for a term of 6 years. The Court appoints a secretary to the bar commission, who serves under the supervision of the Court and the bar commission. The commission so appointed will, prior to the examinations, examine the proofs of qualifications filed in accordance with these rules and may make further investigation as to the qualifications of any applicant as it deems expedient. On the day appointed, it will commence the examination of applicants upon the subjects as ~~published~~ determined by the National Conference of Bar Examiners. The method of conducting the examinations will be left to the discretion of the commission. The purpose of the examination will be to determine whether any individual seeking admission is unqualified and incompetent to be permitted to practice law within the State of Nebraska. The standards for passing the examination will be established by the commission with the approval of the Court.

### **§ 3-110. Review by commission.**

~~Within 10 days following the bar examination, the commission will file a copy of the examination questions (excluding any Multistate Bar Examination questions which have not been made available to the bar commission) with the secretary of the commission, which copy will be a public record. The secretary of the commission will furnish a copy of any such examination questions to any person for the prescribed fee.~~

~~Immediately following the examination, the commission will file the examination papers (excluding any Multistate Bar Examination papers) of all applicants who fail the examination with the secretary of the commission, but no examination papers will become a public record. Within 10 days after the examination results have been announced, any applicant who fails may personally inspect his or her paper in the presence of the secretary of the commission.~~

Any applicant who has failed to ~~pass the bar examination or to~~ be admitted on motion, who has been denied admission on the basis of fitness or character, or who has been refused permission to take the examination, may, within 30 days after the mailing of the notice of ~~failure~~, refusal of permission, denial of admission on motion, or denial of admission on the basis of fitness or character, request a hearing before the bar commission. The applicant must appear at the hearing for an oral presentation and present a concise written brief setting forth the reasons why the applicant should ~~pass~~, be permitted to take the examination, be admitted on motion, or be admitted on fitness or character. The applicant may, at the applicant's expense, make arrangements to have the proceeding recorded for use by the commission or the Supreme Court on appeal. The commission will then review and consider the reasons presented. Upon reaching a determination, the commission will advise the applicant of its decision in writing. In the event that the applicant is dissatisfied with the decision of the commission, the applicant may, within 30 days from the date of the letter from the commission, appeal the decision to the Supreme Court. The appeal must be taken and perfected in accordance with § 3-115.

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### **§ 3-116. Passing standards.**

The passing standard for the bar examination is a grade of ~~435~~ 270 on a single administration of the Uniform Bar Examination, as certified by the National Conference of Bar Examiners (NCBE) ~~determined by averaging the scaled score on the MBE (multiple choice) and the scaled score on the MEE (essay)~~. The passing score for the Multistate Professional Responsibility Examination is 85.

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